

POLICY

The juvenile justice specialist (JJS) is to work closely with residential staff and families in the preparation of reports for court progress reviews, and in the development of aftercare or reintegration plans to be presented to the court. **It is mandatory for the JJS to attend all court scheduled hearings/reviews.**

PURPOSE

Every ward receiving department services by court order is entitled to a hearing to determine if the ward should remain under the court's jurisdiction. The result of these reviews/hearings can be an order for discharge or for continued supervision which may include an order for change of the placement or treatment plan.

AUTHORITY

As noted for each hearing.

PROCEDURE

The schedule and the JJS's responsibilities for these reviews/hearings are as follows:

**Preliminary
Hearing**

(MCR 3.935) The preliminary hearing is held to determine whether there is reason to believe the juvenile committed the alleged offense. If the ward is under the care and supervision of the Department of Human Services (DHS), the court may order the JJS to submit a report.

**Dispositional
Phase Hearing**

(MCR 3.943 & MCR 6.911) The dispositional hearing is held to determine what measures the court will take concerning the juvenile who is properly found within the jurisdiction of the court.

- Commit to DHS for care and supervision.
- Sentence to the Department of Corrections (DOC).

Except for good cause, the interval may not be for more than 35 days between the plea of admission or trial and disposition when the juvenile is detained.

**JJS
Responsibilities****Juvenile Court**

- Upon request of the court, the JJS prepares a pre-sentence report providing recommendations to determine if the youth should be tried as an adult. Upon acceptance of the court order, the JJS prepares the initial services plan (ISP).

Adult Court

- Upon request of the court, the JJS completes a pre-sentence investigation (PSI) when a juvenile is sentenced as an adult. (See JJ2 210 and form DHS- 201, Pre-Sentence Investigation Report in RFF 201.)

**Dispositional
Review Hearing
(Escalation)**

(MCR 3.944(E) to Comply with PL 96-272 (federal requirements).

When the ward is in a foster care placement, dispositional review hearings are held no later than every 182 days (six months) from the date of the referral orders.

Dispositional review hearings are held to determine if the case plan is appropriate by assessing the following areas:

- Appropriateness of services.
- Appropriateness of placement.
- If circumstances causing the commitment are being mitigated or aggravated.

To review the performance of the ward, the ward's parents, or custodian, the worker and other persons providing services to the ward or his/her family.

To supplement or amend an order in delinquency cases (MCL 712A.18) as long as the juvenile remains under the jurisdiction of the court.

To meet federal guidelines for title IV-E funding: hold a review hearing at least every 18 months from the date of commitment. (PL96-272 Section 475(8).

In foster care, dispositional review hearings are held no later than every 182 days (six months) and dispositional hearings every 18 months (MCL 712.19(2)).

JJS Responsibilities

- Submit to the court an updated services plan (USP).
- Review the current USP to ensure that it includes the following:
 - Court order, date of court order and the public act.
 - Long range plan.
 - Current goal.
 - Plan to achieve current goal. The plan is considered current if it covers no more than a three month period and the next report is not yet due.
 - Necessity of placement.
 - Efforts to reunite the family and ward.
 - Appropriateness of current placement.
 - Parties in compliance with case plan.
 - Extent of progress. Include current reports from the residential program (including the Bureau of Juvenile Justice facilities in which the youth is placed).
 - Projected date of release from program.
 - Visitations with ward/family.
 - Up-to-date information that is relevant to the hearing.
 - JJS recommendations.

All of these elements are included in the updated services plan (USP) format. A copy of the most current USP may be offered to the court for the review hearing. Otherwise, a separate commitment review report must be done.

**To Extend Court
Jurisdiction**

MCR 3.944(D) MCL 712A.18d(1) To extend jurisdiction to age 21 for wards whose commitments were for a Class I or Class II offense, i.e., a life offense or a serious felony vs. person, a review hearing must be held, unless adjourned for good cause, as near as possible, but before, the juvenile's 19th birthday. Not less than 14 days before a review hearing is to be conducted, the juvenile and parent must be given notice of the hearing and informed that the court may extend jurisdiction. DHS is to prepare a commitment report for presentation at the hearing.

When a youth is tried and sentenced in the same manner as an adult, the court of jurisdiction may place a juvenile on probation and commit the youth to DHS under P.A. 150 for a specific time period. When a juvenile's probation is scheduled to end, the court must conduct a final review hearing of the juvenile's probation and commitment **not less than three months before the end of the period of probation and commitment.**

At the final review hearing, if the court determines that the best interest of the public would be served, the court may impose any other sentence provided by law for an adult offender. The Class I juvenile offender has the burden of proving by a preponderance of the evidence that he or she has been rehabilitated and does not present a serious risk to public safety. The commitment report, prepared by the JJS for presentation at the hearing, may also be used by the youth as evidence at the hearing.

**Residential
Facility Staff**

The residential placement staff is to send to the court via the JJS the initial treatment plan and copies of the updated treatment plans.

**JJS
Responsibilities**

Submit to the court, prepared in collaboration with the institution or agencies involved in providing services to the juvenile, a report containing:

- The extent and nature of the youth's participation in education, counseling or work programs.

- The youth's willingness to accept responsibility for prior behavior.
- The youth's behavior in his or her current placement
- The prior record and character of the youth and his or her physical and mental maturity.
- The youth's potential for violent conduct as demonstrated by prior behavior.
- The recommendations of the institution, agency, or facility charged with the youth's care, for the youth's release or continued custody.
- Other information the prosecuting attorney or juvenile may submit.

Discharge/Release/Escalation Hearings (MCR 3.944(E))

The discharge/release hearing is to evaluate the juvenile's preparedness for discharge/release from an institution and/or jurisdiction prior to age of automatic discharge.

The court must approve releases and may determine the approval process for release from the department/institution. MCL 712A.18c(4).

No escalation of placement or treatment can occur without a court hearing. MCR 5.944C(4); MCL 712A.18(d).

JJS Responsibilities

When victim notification has been requested at the time of the petition to the court for discharge or transfer of the youth from a secure residential placement to a non-secure setting, the JJS will ensure that written notice of the planned discharge or transfer has been sent to the victim. The residential facility director is responsible for sending written notice of any decision to discharge or transfer a youth to a non-secure setting. The JJS is responsible for notifying victims of a youth's dismissal from DHS jurisdiction in all other situations. A copy of each victim notice must be retained in the youth's file.

Complete and submit the required report form to the court (Request and Order Terminating Court Jurisdiction, JC 36). Ensure that the treatment agency receives a copy.

Prepare and submit to the court a report demonstrating:

- The juvenile has been rehabilitated and is not a risk to public safety (MCR 5.944(d)(4)).

Submit copies of the current risk reassessment and needs reassessment instruments to the court.

Discharge by the court at age 19 years is **automatic** unless the ward committed a Class I or II Offense and is not rehabilitated prior to the 19th birthday MCL 712A.2a(2), MCL 712A.18c and MCL 712A.18d. If jurisdiction is extended, automatic discharge is age 21 years.

The JJS is to petition the court for a final review hearing to be held no less than three months before the end of juvenile's probation and commitment. At that hearing the JJS is to present to the court a commitment report prepared in collaboration with the institution or agencies involved in providing services to the juvenile. The report is to indicate the extent to which the juvenile has been rehabilitated and is or is not a risk to public safety (MCR 5.944(d) (4)).

Procedure for State Ward Discharge Requests

1. A request for discharge of wardship must be submitted on the JC-04 (Petition - Supplement).
2. A "Ready for Trial Form" must be completed with a request to send notice to:
 - a. Juvenile.
 - b. Juvenile's parent(s).
 - c. Prosecutor's office.
 - d. Department of Human Services.
 - e. Treatment agency.
 - f. Victim, when requested.
3. A written report detailing the juvenile's placement history, adjustment, current status, and supporting information for

request to terminate wardship must be provided for the court hearing. A minimum of three copies are required.

Note: Do not attach the report to the application for petition.

- When a ward is being released from placement (including the training school):
 - The JJS explains to the court the plan for continued supervision in the community based on a written determination from the residential facility staff that the ward has been rehabilitated and is considered to be no threat to the community.
- Non-automatic discharges or releases from wardship require a court hearing.

Discharges By Committing Court

State Wards

All P.A. 150 wards must be automatically discharged by the court at 19 years of age unless the committing offense was a Class I or II offense or the youth was sentenced by an adult court and the committing court extends jurisdiction to age 21 years. The ward is then automatically discharged from state wardship at 21 years.

The ward may be discharged by the court at anytime before automatic discharge age based upon a petition filed by the JJS or on its own motion.

The JJS must petition the committing court for discharge for:

- Age - four months before his/her 19th birthday or his/her 21st birthday (as indicated above).
- Satisfactory adjustment - Wards 17 years of age or older who have successfully completed six or more months of aftercare services in the community. (Satisfactory adjustment is also the ward who has achieved the treatment goal and is productive and living a law abiding program.)
- If a ward is involved in a department-funded program, an intensive counseling program, educational program, or employment training program which would be interrupted if the

ward was discharged, the discharge petition may be delayed until age 19 or 21 as indicated above or until the natural conclusion of the program if sooner than the automatic discharge age.

- National service - A ward must be petitioned for discharge if he/she has been **accepted** into the armed services or a service agency such as Peace Corps or VISTA. Discharge may be delayed for three months subsequent to the youth's entry into one of the above to allow for satisfactory adjustment of the youth.
- If a ward under family court jurisdiction has been prosecuted in an adult court and has been sentenced to jail or probation, the JJS is to petition the court for discharge.
- Move to another state - The JJS may recommend discharge of a ward who has moved to another state after receiving satisfactory report from the other state through the interstate services procedures.
- Negative response to treatment (county director's approval needed) - A ward who has been in the community at least six months, has not responded to department services, and would gain no benefit in being retained as a state ward, may be discharged on that basis. **The JJS may make such recommendation to the committing court for wards who are at least 17 years of age** and whose discharge will not cause a risk of harm to the community. **All resources to assist the youth in completing treatment goals must be exhausted before this option can be used.**
- Death - The case record will show date and cause of death, sources of information and department involvement in funeral arrangements and other matters. (See FOM 903-10, Funeral Payments regarding funeral expenses for wards.) The JJS is to send a notice of discharge to the committing court.

Each local office must establish the appropriate administrative controls to ensure identification and tracking of all escaped state wards. The JJS/Private agency aftercare staff must verify and document the age, duration of escape status, and that there is no knowledge of re-arrest or criminal activity of each state ward petitioned to the committing court for discharge under these conditions.

The JJS in the county of commitment or county with case management responsibility who recommends discharge must submit the required document to the committing court, documenting the reasons for the discharge request. If the ward is in a training school the JJS is to consult with the training school staff regarding discharge and is to send the jointly developed report and recommendation to the committing court with a copy to the training school. (The same procedure must be used when a ward has escaped from the training school.)

Discharge recommendations may be approved or denied by the committing court on the basis of the JJS's report, **without a formal hearing** or as determined by the committing court. A hearing may be scheduled if the committing court determines that there is insufficient information upon which to base a final decision. The committing court will send written notification of its decision to the JJS, ward, ward's parents and prosecutor. The JJS must notify the victim of the discharge. All cases, services and payments relating to the P.A. 150 wardship are closed at discharge. The discharge must be noted on SWSS FAJ (Service Worker Support System Foster Care, Adoption and Juvenile Justice) as a closed case with the reason for closure.

Note: Dual wardships will revert back to P.A. 220 (MCI) status if the youth is under age 19 years at the time of discharge of Act 150 wardship.

Discharge by Referring Court

Court Wards

The JJS must comply with the Michigan court rules when processing a discharge from court wardship. Although court wards are referred to the Agency for care and supervision, the court retains jurisdiction from the time of referral to the time of discharge. The court also conducts six month review hearings and conducts hearings on other matters pertaining to the delinquent ward.

Violation Hearings

(MCL 712A.19(1) (MCR 3.944(A)(B)) Violation hearings are held to determine if the juvenile has violated conditions of community placement, probation and/or conditions of release (technical or by

committing a new offense). Violation hearings are held on motion of the court upon petition of any interested person.

JJS Responsibilities

- Decide whether or not to file a violation petition, based upon the results of the DHS-4539, Delinquent Youth Security Level Matrix for Re-offenders (see RFF 4539) and related policy. (See JJ2 230) when the alleged offense is a misdemeanor, status offense or violation of conditions of placement.)
- Check with the local law enforcement agency, court or prosecutor's office to determine if any court action is planned or pending.
- Complete and submit to the court the appropriate form to obtain an order to take into custody.
- Notify the ward and the ward's parent according to the local court procedures. Clarify appropriate procedures with the court.
- *No petition is required for violation of the Michigan vehicle code (MCL 257.728).